APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/535,676	03/23/2000	Mayer D. Schwartz	7049 US	2181

7812   7590   06/18/2004

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EXAMINER
FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
2663	

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
       NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____

Continuation of 5. does NOT place the application in condition for allowance because: At issue is the optimizing use of a fixed capacity channel in reference to the first full paragraph on page 3 of applicant's remarks. In particular, examiner notes that the use of jitter control in fact optimizes the fixed capacity of the channel. In particular, applicant argues the optimizing use of a fixed capacity channel is taught by the limitation loading of the picture into the smoothing buffer commences at a specified amount of time prior to the time indicated by the pictures decode time stamp (DTS), see third paragraph on page 2 of applicant's remarks. Applicant notes the above limitation is not met based on the teachings of Haskell specifically at column 5, line 4. Examiner respectfully disagrees. First, it may not be clear from Haskell that the data channel is CBR. Examiner notes that the data channel may be VBR based on the background of Haskell at e.g., column 1 lines 19-23. Second, column 5, lines 4-20 is concerned with how audio and video information is extracted from the video data buffer 202 and not necessarily how the audio and video information is loaded into the video data buffer 202 as recited in the claim. This appears to be the key item at issue. The examiner will agree that column 5, lines 4-20 disclose that the audio video information is extracted based on the DTS which is in-line with applicant's further recited limitation in claim 1 of transferring the picture from the smoothing buffer at the time indicated by the pictures decode time stamp. With respect to how the information is loaded into the video data buffer 202 see e.g., column 5, lines 46-63 of Haskell. In particular, Haskell discloses that to avoid e.g., underflow additional data can be stored in the data buffer 202. This additional loading of data causes "an extra accumulation of data in the buffer prior to decoding". Specifically, since additional information is stored in the data buffer, the load commences at a specified amount of time prior to the time indicated by the DTS. Thus avoiding jitter smooths the video or audio data. Examiner would like to further point out that applicant recites that the rate that the video data is loaded in the buffer only must not be more than a desired CBR..
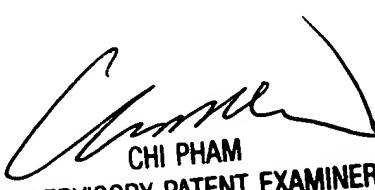
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